IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8001 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and Sd/-

MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

HGI INDUSTRIES LTD (FORMERLY HINDUSTAN GAS & INDUSTRIES LT)

Versus

UNION OF INDIA

Appearance:

MR MIHIR H JOSHI for Petitioner

MR AKSHAY H MEHTA for Respondent No. 1

MR MR SHAH for Respondents 2,3 & 4

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE D.H.WAGHELA

Date of decision: 27/01/2000

ORAL JUDGEMENT (Per B.C.Patel, J.)

Rule. Service of Rule is waived by learned counsel Messrs Mehta and Shah on behalf of the respondents.

2. HGI Industries Ltd., the petitioner before us, has made a grievance that despite the fact that the CEGAT has decided the matter in its favour by the decision dated 13.11.1998, there is insistance by the Commissioner (Appeals) to pay the pre-deposit. As no amount was paid, the appeal has been diismissed.

3. The learned counsel apearing for the parties, after going through the record, submitted that, without expressing any opinion, more particularly when there is a decision of the CEGAT, the Court may direct the Commissioner (Appeals) to decide the appeal on merits without insisting for pre-deposit after restoring the appeal. Consequently, the order of dismissal of appeal is hereby quashed and set aside. The Commissioner (Appeals) is directed to restore the appeal and decide the same within a period of eight weeks from the date of receipt of this order without insisting for pre-deposit.

4. Petition stands allowed to the aforesaid extent. Rule is accordingly made absolute.

(KMG Thilake)
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